REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application, and for th personal interview conducted on April 18, 2006. The application has been carefully reviewed in light of the Office action and interview, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1 and 12-24 remain in this application. Claim 24 has been withdrawn as the result of an earlier restriction requirement, and applicant retains the right to present that claim in a divisional application.

Claims 14, 16, and 18 were rejected under 35 U.S.C. §112, second paragraph. For the following reasons, the rejection is respectfully traversed.

Claims 14 and16 have been amended to ensure that the claims are consistent with the specification. Note that the phrase "comparer unit" of claim 14 is discussed on page 15 of the specification, and the term "set-level comparative unit" of claim 16 is discussed on page 7 of the specification. Thus, the rejections are moot.

As to the rejection of claim 18, at the personal interview the Examiner was pointed to Fig. 4 for support of the comparing unit of the claim, and the Examiner agreed to withdraw the rejection based on that discussion.

Claim 23 was rejected under 35 U.S.C. §102(e) as being anticipated by Basseas (6,674,867). For the following reasons, the rejection is respectfully traversed.

At the personal interview, it was discussed that Basseas does not teach automatically selecting an audio track based on the results of a hearing appraisal. Instead, the reference appears to merely teach that the results of an appraisal are used to program a hearing aid, but the reference is silent as to selecting an audio track (see cols 4 and 5, in particular col. 5 at lines 29-33). In contrast, claim 23 recites the steps of "having the individual appraise said audio test signal" and "automatically selecting, in dependency of said appraising, a subsequent audio test signal" which is not found in the reference (in particular, there is no such teaching at col. 2, lines 36-48 cited by the Examiner for teaching this feature). Accordingly, claim 23 is patentable over Basseas.

Claims 1, 12, 13, 16, 17, 20, 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Moser *et al.* (WO 85/00509) in view of Engebreston

et al. (U.S. 4,548,082). Claim 14 was rejected as above, in further view of Geiger (U.S. 4,807,208). For the following reasons, the rejection is respectfully traversed.

As discussed previously, Moser does not teach any connection to a hearing device. Thus, the Examiner as cited Engebreston for this teaching. However, as was discussed at the personal interview, Engebreston does not teach automatically selecting an audio track based on assessment data. The Examiner suggested that explicitly claiming such a feature would overcome the rejections.

Accordingly, claim 1 has been amended to recite that "assessment data is entered into said data entry device based on perceptions of a user wearing said hearing device listening to one of said audio tracks" and that "said computing device automatically selects another one of said audio tracks based on said assessment data". Hence, claim 1 is patentable over the combination of references.

Similarly, claim 20 has been amended to recite a "data input for data entry by an individual carrying a hearing device to be fitted in situ, said data input for said individual to input assessment data for assessing said hearing aid during playback of one of said storage segments" where "said computing unit is adapted for automatically selecting another one of the plurality of storage segments depending on said assessment data entered by said user". Accordingly, claim 20 is also patentable over the cited references.

Finally, claim 22 already recites that "said computing unit is adapted for automatically selecting said one of a plurality of storage segments depending on signals applied to said data input", and claim 23 recites the steps of "having the individual appraise said audio test signal" and "automatically selecting, in dependency of said appraising, a subsequent audio test signal" and thus these claims are also patentable over the reference for similar reasons as discussed above.

The remaining claims, which depend on one of the above discussed claims, are thus patentable over the references for at least the same reasons as the parent claim.

Finally, the Examiner has failed to support the rejections for obviousness because the Examiner has failed to provide legally sufficient motivation for combining the references, and thus the obviousness rejections are improper.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is

determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 31949.

Respectfully submitted,
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Date: May 17, 2006 By: _____
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